

REMARKS

Upon entry of this amendment, claims 1, 8, 12 and 15 are amended and claims 6, 7, 13, 14 and 16-27 are cancelled, leaving claims 1-5, 8-12 and 15 pending with claims 1 and 12 independent. No new matter has been entered

The Drawings are objected to since they are hand written. Applicant respectfully requests that this objection be withdrawn. Applicant submits that the drawings are not hand drawn and comply with 37 CFR 1.87. Applicant notes that some lettering in the drawings appear to be hand written, but submit that all lettering complies with 37 CFR 1.87.

Claims 1, 5, 10 and 11 stand rejected under 35 USC §102(b) as being anticipated by McKee (US 5477531). Claim 12 stands rejected under 35 USC §102(b) as being anticipated by Prarie (US 6834139). Claims 2-4 stand rejected under 35 USC §103(a) as being unpatentable over McKee in view of Kakhosha (US 6002671). Claim 6 stands rejected under 35 USC §103(a) as being unpatentable over McKee in view of Prarie. Claims 7-9 stand rejected under 35 USC §103(a) as being unpatentable over McKee in view of Prarie and further in view of Kuo (US 7209435). Claim 13 stands rejected under 35 USC §103(a) as being unpatentable over Prarie in view of Finney (US 6834139). Claims 14 and 15 stand rejected under 35 USC §103(a) as being unpatentable over Prarie in view of Kuo.

Applicant respectfully disagrees.

Independent claim 1 now recites the subject matter of claims 6 and 7 and independent claim 12 now recites the subject matter of claims 13 and 14. Therefore, Applicant will address the combination rejections concerning the these dependent claims.

In particular, as conceded by the Examiner, McKee and Prarie (the two base references for rejection of independent claims 1 and 12) do not disclose the feature

"wherein that at least one interface is marked as active and used for the transmission of user data and at least one further interface is marked as a standby and is not used for the transmission of user data, and the standby interface is activated and user data is henceforth transmitted via the standby interface and a message path associated with the standby interface as soon as all message paths associated with the active interface are marked as temporarily or permanently faulty. "

For this element, the Examiner relies on Kuo. Kuo relates to a system and method for providing network route redundancy across layer 2 devices. Referring to Fig. 1, Kuo mentions several devices 104, 106, 118, 120 that are described as Virtual Switch Redundancy Protocol (VSRP) devices. Kuo teaches that only one of the VSRP devices 104 is in active communication with the VSRP aware devices 108, 110, 112 to which it is connected. Additionally, while referring to Fig. 2, Kuo teaches in col. 6 that VSRP switches 204, 206 and 208 are configured as one virtual switch 202, providing redundant routes to the network core 220 in the event that the current VSRP master switch 204 within the virtual switch 202 becomes inoperative, e.g., not the optimal switch to be acting as master for a given virtual circuit 202.

The elements set forth in the claims are distinct from the Kuo process. For example, the invention covered by the claims relate to "separate Interfaces of the first device Host being linked to the respective redundant communications networks". Kuo, however, teaches switches that run some redundancy scheme to allow a backup switch to step in if the master switch becomes inoperative. Therefore, one of ordinary skill in the art would not use Kuo to modify either of the base references. Furthermore, present claims cover providing test messages by a first device via one of its interfaces. In case of failure a message path is marked as faulty and the first device may hence activate a standby interface for conveying traffic. Since Kuo does not teach how to convey test messages by selecting the address of the first device according to the first protocol layer both as send and receive addresses, Kuo is not pertinent and does not render the present claims obvious in combination with the base references.

Furthermore, McKee and Prarie, as discussed above, do not disclose all the features of the invention. By using a combination of McKee, Prarie and Kuo, or Prarie and Kuo (and Finney), the Examiner is using the present specification as a roadmap to select random elements in the prior art to arrive at the claimed invention. The Examiner is using improper hindsight to render these claims obvious. Applicant also submits that the cited prior art teaches away from the present claimed invention. For example, Kuo does not relate to claimed subject-matter, it only provides some redundancy in a different scenario of VSRP devices that relate to a different context and it is not connected to the remaining features of claimed subject-matter. Looking at the features of Kuo in the context of McKee and Prarie, the skilled person would not arrive at claimed subject matter. Instead, the skilled person would be provided with redundancy switches

without any idea of how to efficiently utilize a test method as does the claimed subject-matter. Therefore, by looking into Kuo, the skilled person would be lead away from the invention.

Hence, considering the above, claimed subject-matter is not obvious in view of the cited prior art. Applicant submits that independent claims 1 and 12 and there respective dependent claim are allowable for the reasons discussed above.

The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY 

Jeffrey J. Howell

Reg. No. 46,402

Customer No. 29177

Dated: December 28, 2007